

### **REMARKS**

By the present amendment, the election of claims for prosecution in this application, claims 1-21, is affirmed. Claims 4 and 21-29 are canceled which includes cancellation of non-elected claims 22-29. Claims 1, 5, 16 and 20 are being amended to more clearly set forth the present invention. The claims pending in this application are claims 1-3 and claims 5-20. Reconsideration and favorable action are respectfully requested.

### **Election/Restrictions**

The present application is subject to a restriction requirement requiring election between the following two groups of claims:

- I. Claims 1-21
- II. Claims 22-29

As noted in the Office Action, Applicant's attorney made a provisional election with traverse to prosecute invention I, claims 1-21, in a telephone conversion with the Examiner on May 23, 2003. Applicant hereby affirms with traverse the election to prosecute invention I, claims 1-21. Claims 22-29, which are now withdrawn from consideration, are being cancelled to advance prosecution of this application pending the filing of a divisional application to prosecute the non-elected claims.

### **Specification/Priority**

The Examiner has stated that Applicant has not complied with one or more conditions for receiving the benefits of an earlier filing date under 35 U.S.C. 119(e) because "The specification must state that applicant claims the benefit of 60/269,246, filed on 02/16/2001, under 35 U.S.C. 119(e)." Applicant submits that the requirement of 35 U.S.C. 119(e) have been met because applicant filed an Application Data Sheet (ADS) which makes reference to 60/269,246, filed on 02/16/2001. The Examiner's attention is directed to 37 CFR 1.76 (b)(5) which provides:

*Domestic Priority Information.* This information includes the application number, the filing date, the status (including patent number if available), and relationship of each application for which a benefit is claimed under 35 U.S.C. 119(e), 120, 121, or 365(c). Providing this information in the application data sheet constitutes the specific reference required under 35 U.S.C. 119(e) or 120, and §1.78(a)(2) or §1.78(a)(4), and need not otherwise be made part of the specification (emphasis added).

In the event that the ADS has not been received or that the ADS is not in compliance with 35 U.S.C. 119(e) or 37 CFR 1.76 (b)(5), the Examiner is respectfully requested to advise Applicant as to how the problem may be corrected.

### **Claim Rejections - 35 USC §112**

In the Office Action, the Examiner rejected claims 4, 5 and 21 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claims the subject matter which applicant regards as the invention. The Examiner takes the position that the wording "flakes of fluoropolymer film" does not make sense and suggests the wording "fluoropolymer flakes". To overcome this rejection, Applicant has employed the

Examiner's suggested wording "fluoropolymer flakes" in claims 1, 5, 16, and 20 which now include this limitation. Applicant submits that this rejection has been overcome.

### **Claim Rejections - 35 USC §103**

The Examiner rejected claims 1-21 under 35 USC §103(a) as being unpatentable over USPN 5,657,603 to Goodhart et al. in view of USPN 6,336,988 to Enlow et al. and USPN 5,108,836 to Ocampo et al.

The Examiner takes the position that Goodhart (citing col. 9, lines 48-58) teaches sheet metal roofing such as steel or aluminum having treatments and surface coatings. The Examiner further explains that Goodhart teaches conventional sheet metal (panel) coatings of 1) metal oxides such as aluminum, zinc, or zinc aluminum alloy (claims 6-10) citing col. 10, lines 45-49, and 2) a polymeric coating of polyvinylidene fluoride (fluoropolymer film at col. 10, lines 50-55) for surface protection or pigmentation (equivalent to decorative textured surface). The Examiner states that the thickness of the metal is from 0.014 – 0.35 inches (14 mils to 35 mils) (col. 10, lines 10-20), and the thickness of the polymeric coating is between 0.03-0.08 inches (3 to 8 mils) at col. 10, lines 54-58, meeting Applicant's claimed range from 0.5 to 42 mils in instant claims 12 and 19.

The Examiner indicates that Goodhart is silent to teaching an additional discontinuous top layer of fluoropolymer, a second color forming a speckled pattern. However, the Examiner notes that Enlow teaches extrusion coating process for making protective and decorative films from PVF resinous pellets/flakes (resinous pellets are naturally flaked in form, hence equivalent to flakes) and reflective flakes dispersed in the PVF to form a metallic appearance (also equivalent to flakes of fluoropolymer) at col. 8, lines 15-20, inherently producing a speckled pattern (claims 2 and 16). Enlow teaches printing wood grain coats of polyvinyl fluoride pigmented coats (discontinuous fluoropolymer, also decorative and textured) over fluoropolymer extruded film at col. 30, lines 25-45 and may also have a second color coat (different color - claim 5). The Examiner also cites col. 7, lines 33-57. The Examiner concludes that it would have been obvious to one of ordinary skill in the art to modify the sheet metal roofing of Goodhart to further coat an additional discontinuous fluoropolymer layer in flake form to produce a speckled, decorative, and textured pattern having a second color since Enlow teaches providing the aforementioned aesthetic modifications via extrusion coating processes to produce decorative protective coatings over polymeric layers/films.

The Examiner also indicates that Goodhart is silent to teaching the textured surface forms a slip resistant surface as in instant claim 3 and 18, however, the Examiner concludes that such a property is inherent to the structure since the same materials are used.

The Examiner further indicates that Goodhart is silent to teaching a substrate of polymer as in Applicant's claim 13 but cites Ocampo as teaching a weatherable protective surfacing film. The Examiner explains that fluoropolymer film of Ocampo may be applied to various substrates of metals or polymeric substrates (citing col. 5, lines 60-66) and states that Ocampo also teaches it may cover a wall at col. 3, line 2. The Examiner concludes that it would have been obvious to one of ordinary skill in the art to modify the metal sheet of Goodhart to substitute a polymeric substrate since Ocampo teaches interchanging metal and polymer substrates for fluoropolymer films for the purpose of providing a protective layer at col. 5, lines 60-66.

Applicant respectfully traverses this rejection.

Applicant submits that there are significant differences between the invention as now set forth in amended claim and the teachings of Goodhart. Amended claim 1 calls for a decorative architectural panel comprising a substrate, a base layer of preformed fluoropolymer film adhered to said substrate and at least one discontinuous top layer of fluoropolymer forming a decorative, textured surface. By the present amendment, claim 1 now also provides that the discontinuous top layer is comprised of fluoropolymer flakes. As noted above, the Examiner indicates that Goodhart is silent to teaching an additional discontinuous top layer of fluoropolymer and textured surface called for by claim 1. Indeed, Goodhart specifically teaches a continuous and smooth top layer for the polymeric coating. At column 10, lines 48-56, Goodhart discloses that the coating 144 may be formed using a primer and "finish" coating. As shown in Figure 18, the finish coating is clearly continuous and smooth. There is nothing in Goodhart to suggest that anything other than a continuous and smooth layer and clearly no teaching of a discontinuous top layer comprised of fluoropolymer flakes forming a decorative, textured surface. There is no disclosure or teaching of any kind in Goodhart relating to fluoropolymer flakes.

One other salient difference between Applicant's claimed invention and Goodhart is that Goodhart does not disclose a preformed fluoropolymer film as called for in claim 1. Goodhart discloses only a polymeric coating on metal and does not teach or suggest a preformed film.

Applicant submits that Goodhart teaches a very different structure from the invention of Applicant's claim 1 and that Applicants amended claim 1 distinguishes over Goodhart.

Applicant further submits that the Goodhart, even when taken in combination with the secondary references, still falls short of teaching Applicant's invention.

The Examiner takes the position that Enlow uses PVF resinous pellets/flakes and that resinous pellets are equivalent to flakes. The Examiner also indicates that Enlow discloses reflective flakes dispersed in the PVF and that such reflective flakes are equivalent to flakes of fluoropolymer because they produce a speckled pattern. The Examiner also takes the position that Enlow teaches printing wood grain coats of polyvinyl fluoride pigmented coats (discontinuous fluoropolymer, also decorative and textured) over fluoropolymer extruded film.

In contrast to the Examiner's position, Applicant submits that Enlow does not teach or suggest the use of fluoropolymer flakes to form a discontinuous top layer of fluoropolymer. Neither the resin pellets nor the reflective flakes used in Enlow are equivalent or even similar to the fluoropolymer flakes called for in amended claim 1. The resin pellets used in Enlow are necessarily either dissolved or dispersed in a solvent for solvent casting or are melted for extrusion casting. Unlike the fluoropolymer flakes which produce a decorative, textured surface in Applicant's invention, the resin pellets are not identifiable in the resulting films and coats disclosed in Enlow and the flakes do not form a discontinuous top layer of fluoropolymer.

Moreover, the reflective flakes disclosed in Enlow are completely different from fluoropolymer flakes used in the present invention and they are used in a very different way. The reflective flakes of Enlow are incorporated into the liquid solvent cast polymer so that they will be fully embedded in the resulting film. Thus, they are not on the surface and cannot be interpreted to be the same or similar to fluoropolymer flakes forming a discontinuous top layer of fluoropolymer forming decorative, textured surface. The embedded flakes only affect the appearance of the film and impart no texture. In addition, the flakes do not create

decorative effect on the surface, i.e., they do not form a decorative surface, and instead impart a different appearance to the bulk of the film.

Applicants submit that Enlow adds nothing to the teachings of Goodhart which would lead on skilled in the art to invention of amended claim 1.

Ocampo also adds nothing to the teachings of Goodhart which would lead on skilled in the art to the present invention. Ocampo teaches a two layer fluoropolymer/acrylic blend film with the outer layer being fluoropolymer rich to impart weather and stain resistance and the inner layer being acrylic rich to provide "self-bonding" properties for securing the film to a substrate. A number of substrates are disclosed including glass, metals, plastics, textile fabrics and coated fabrics, sheets and webs. There is no disclosure or teaching of any kind relating to a fluoropolymer film with fluoropolymer flakes to form a discontinuous top layer to form a textured, decorative surface.

Accordingly, Applicant submits that none of the references, taken alone or in combination teach or suggest the invention of amended claim 1. Applicant submits that claim 1 is allowable.

Claims 2-3 are dependent upon amended claim 1 and are directed to preferred forms of the present invention. Claim 2 calls for the base layer being a first color or clear and the discontinuous top layer (now formed by fluoropolymer flakes) being a second color. Fluoropolymer flakes of a second color are not taught or suggested in any way by the references. Claim 3 calls for the textured surface to be a slip resistant surface. None of the references teach or suggest a slip resistance surface formed by fluoropolymer flakes. Applicant submits that the invention as set forth in claims 2 and 3 are not taught or suggested by the references, taken alone or in combination, and that claims 2 and 3 are also allowable.

Claims 5-15 are directly or indirectly dependent upon amended claim 1 and are directed to preferred forms of the present invention which Applicant submits are not taught or suggested by the references and are therefore allowable.

Amended claim 16 is an independent claim directed to decorative sheeting for surfacing architectural panels comprising a pigmented base layer of preformed fluoropolymer film having a first color and at least one discontinuous pigmented top layer of fluoropolymer having a second color adhered to said base layer forming a decorative speckled pattern. Claim 16 also has been amended to provide that the discontinuous top layer is comprised of fluoropolymer flakes. Applicant submits that the decorative sheeting of claim 16 is not taught or suggested by the references, taken alone or in combination and that amended claim 16 is allowable.

Claims 17-20 are dependent upon claim 16 and are directed to preferred forms of the invention. Applicant submits that the invention as set forth in claims 17-20 are not taught or suggested by the references and are allowable.

Amended claim 20 is an independent claim directed to decorative sheeting for surfacing architectural panels comprising a base layer of preformed fluoropolymer film and at least one discontinuous top layer of fluoropolymer forming a decorative, textured surface. Claim 20 has also been amended to provide that the discontinuous top layer is comprised of fluoropolymer flakes. Applicant submits that the decorative sheeting of amended claim 20 is not taught or suggested by the references, taken alone or in combination and that amended claim 20 is allowable.

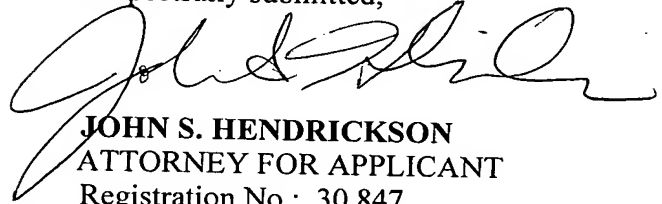
Enclosed is a Petition for a three-month extension of time.

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In view of the foregoing, allowance of the above-referenced application is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John S. Hendrickson", written over the typed name.

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